

NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule takes effect upon filing with the Secretary of State and remains in effect for 180 days. An emergency rule may be renewed for one or two 180-day periods if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

NOTICE OF EMERGENCY RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

MOTOR VEHICLE DIVISION

PREAMBLE

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| <p>1. <u>Sections Affected</u>
R17-4-709
Appendix A
Appendix B
Appendix C</p> | <p><u>Rulemaking Action</u>
New Section
New Appendix
New Appendix
New Appendix</p> |
|--|---|
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 28-366.
Implementing statutes: A.R.S. §§ 28-1382(G), 28-1383(K), 28-1461, and 28-1462, as added by Laws 1998, Ch. 302, §§ 23, 24, and 31.
3. **The effective date of the rules:**
December 1, 1998
4. **Is this rulemaking a renewal of a previous emergency rulemaking?**
No.
5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Lynn S. Golder, Rules Attorney
Address: Arizona Department of Transportation
Motor Vehicle Division
4747 North 7th Avenue
Phoenix, Arizona 85013
Telephone: (602) 255-7941
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6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
An ignition interlock device is a device designed to be installed in a vehicle, to measure a driver's breath alcohol concentration, and to prevent starting the vehicle when the driver's breath alcohol concentration is at or above a preset level. The driver must breathe into the device and provide an acceptable breath sample. The device allows the vehicle ignition switch to start the engine only when the breath sample is below the alcohol setpoint.
Legislation effective after November 30, 1998, Laws 1998, Ch. 302, §§ 23 and 24 (HB 2053), requires a person to have installed in each vehicle operated by the person a functioning ignition interlock device certified by the Arizona Department of Transportation, Motor Vehicle Division when both the following conditions occur:
1. The person is convicted in an Arizona court after November 30, 1998, of driving or actual physical control while under the extreme influence of intoxicating liquor (DUI extreme) or of aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs (aggravated DUI); and
2. The Arizona court issues an order limiting the person's driving privilege to operation of a motor vehicle equipped with a functioning certified ignition interlock device.
A.R.S. §§ 28-1382(G), 28-1383(K), 28-1461, and 28-1462, added by Laws 1998, Ch. 302, §§ 23, 24, and 31, respectively.

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The legislation establishes a pilot program of not more than 300 people ordered by Arizona courts from December 1, 1998, through November 30, 1999, to have certified ignition interlock devices installed. Laws 1998, Ch. 302, § 42. The Arizona ignition interlock device pilot program will test the efficacy of installed and functioning ignition interlock devices as a means of DUI abatement. Because conviction for aggravated DUI results in a 3-year revocation before driving privileges can be reinstated, the participants in the pilot program and in the first years of any continuing program will be people convicted of extreme DUI with no DUI convictions within the previous 5 years.

A.R.S. § 28-1462(B) mandates that the Arizona Department of Transportation, Motor Vehicle Division (Division) certify ignition interlock devices and adopt rules "prescribing the requirements for certification", including, "the procedure for certification of ignition interlock devices", "provisions to ensure the reliability of the ignition interlock device over the range of motor vehicle environments", and "provisions to ensure that the ignition interlock device works accurately in an unsupervised environment." Timely implementation of the ignition interlock device program by administrative rule is imperative for the public health, welfare, and safety. Studies have shown that an ignition interlock device program does reduce the DUI recidivism (repeat offense) rate. Simultaneous with this emergency rulemaking, the Division is undertaking regular rulemaking, with public participation. The Notice of Rulemaking Docket Opening was published at 4 A.A.R. 2172, August 7, 1998.

The Division's ignition interlock device certification rule, R17-4-709, sets forth the requirements an ignition interlock device must meet to be certified by the Division, establishing the certification process to be followed by the manufacturer of the device. Additionally, the rule sets forth the manufacturer's continuing duty to ensure the reliability and accuracy of a certified ignition interlock device, including appointment and oversight of authorized installers, who install the device in motor vehicles and service the installed device.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

The following studies were reviewed by the Arizona Department of Transportation, Motor Vehicle Division for this rulemaking: Beirness, Marques, Voss, and Tippetts, "Evaluation of the Alberta Ignition Interlock Program: Preliminary Results," 1997; "Michigan Drunk Driving Recidivism Assessment May 1998 Literature Review Report," Michigan Public Health Institute; and "Preliminary Study of the Breath Alcohol Ignition Interlock Pilot Program," The BAIID Division, Department of Administrative Hearings, State of Illinois, June 30, 1997. The studies are on file with the Division.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business, and consumer impact:

Because this is the initial making of an emergency rule pursuant to A.R.S. § 41-1026, A.R.S. § 41-1055(D) exempts the agency from providing an economic, small business and consumer impact statement.

10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

11. Incorporations by reference and their location in the rules:

National Highway Traffic Safety Administration Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), 57 FR 11772-11787, April 7, 1992, incorporated at R17-4-709(A)(9).

12. An explanation of the situation justifying the rule's adoption as an emergency rule:

Laws 1998, Ch. 302, §§ 23, 24, and 31 (HB 2053), adding A.R.S. §§ 28-1382(G), 28-1383(K), 28-1461 and 28-1462, was approved by the Governor on June 1, 1998, and filed in the Office of the Secretary of State on June 3, 1998. The notice and public participation requirements of the Administrative Procedure Act were impracticable because of the time constraint. There was insufficient time for regular rulemaking. No delay or inaction on the part of the Division created the emergency situation, and the emergency situation could not have been averted by timely compliance with the notice and public participation requirements.

The average time for regular rulemaking by all State agencies is slightly more than 10 months from the docket opening notice to approval by the Governor's Regulatory Review Council. Some rulemaking takes 12 months or more. The average time for regular rulemaking by the Division is approximately 9 months. The legislation R17-4-709 is implementing becomes effective less than 6 months after it was signed into law. Following the legislature's enactment of A.R.S. §§ 28-1382(G), 28-1383(K), 28-1461, and 28-1462, the Division consulted with personnel from the Arizona Department of Health Services and with ignition interlock device manufacturers and reviewed studies of other jurisdictions' ignition interlock device programs. The Division needed to take these steps to develop a sound ignition interlock device certification rule.

The state needs to have an ignition interlock device certification rule in place before the December 1, 1998 start date of the pilot program. Manufacturers will prepare and submit completed applications to the Division and establish an authorized-installer network in accordance with the rule. The Division will review applications and obtain outside review of laboratory reports. New A.R.S. § 28-1462(A) requires the Division to certify ignition interlock devices of at least 3 manufacturers, publish a list of certified devices, and make the list available to courts and probation departments. All of these activities take time. With Arizona courts potentially ordering installation of certified ignition interlock devices beginning December 1, 1998, device certification cannot wait until a potential March 1999 completion of regular rulemaking. It is, therefore, imperative that the rule become effective now.

Additionally, certification, reliability, and accuracy of ignition interlock devices to be installed pursuant to court order directly affect the public health, safety, and welfare. Drinking and driving increases the probability of motor vehicle accidents and injury from motor vehicle accidents. In January 1997, the Division reviewed 342 records of people whose driving privileges had been

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revoked because of multiple DUIs, who subsequently underwent investigation by the Division, who were allowed to apply for driver licenses, and who were issued Arizona driver licenses before 1994. The 342 records revealed 126 repeat DUIs over the 3-year period, a 3-year recidivism rate of 36.8%. Reports on ignition interlock device programs in other jurisdictions indicate that the programs do reduce DUI recidivism.

An Alberta, Canada study, reviewed by the Division for this rulemaking, reported a DUI recidivism rate of 37.6% over 3 years among convicted DUI offenders who did not participate in an ignition interlock device program; for program participants, the recidivism rate was 15.7% over 3 years, or 60% less. Indeed, the Alberta, Canada study provides some evidence that participating in an ignition interlock device program may result in postparticipation behavioral change: for the nondevice group, the probability of not being arrested for a subsequent DUI continued to decline for 6 years; for the ignition interlock device group, the probability of not being arrested for a subsequent DUI actually began to stabilize after 3 years. Other studies reviewed by the Division reported a reduction in repeat DUIs during the period vehicles are equipped with functioning ignition interlock devices: a Michigan study reported a 70% reduction in recidivism; an Illinois study reported a 76% reduction.

The studies highlight practical issues for Arizona. Analogizing from the Division's January 1997 review of 342 records, if Arizona were to have 10,000 1st-time extreme DUI offenders yearly, and no ignition interlock device program, the 10,000 offenders would produce about 3680 repeat DUIs over the next 3 years. With a continuing ignition interlock device program and positing a court-order rate of only 20%, Arizona would have 2000 program participants yearly. Using the Alberta, Canada DUI program participant recidivism rate of 15.7% over 3 years, the 2000 Arizona participants would have 314 repeat DUIs. Using the Alberta, Canada non-participant recidivism rate of 37.6% over 3 years, the 8000 Arizona nonparticipants would have 3008 repeat DUIs. Thus, the 10,000 1st-time extreme DUI offenders would have a total of 3322 repeat DUIs over 3 years. This represents an abatement of 358 DUIs from the 3680 figure. Positing a 100% ignition interlock device rate, the 10,000 offenders would have 1570 repeat DUIs over 3 years, providing an abatement of 2110 DUIs from the 3680 figure.

The ignition interlock device statutory scheme does make the initial year of Arizona's ignition interlock device program a pilot program, limited to 300 participants. Nevertheless, the limited 1st year does not abrogate the Division's need to have the ignition interlock device certification rule in place immediately. Studies from other states indicate that ignition interlock devices reduce future DUIs. An immediate rule will allow the pilot program, precursor of a full ignition interlock device program, to timely proceed with DUI abatement. Prevention of even 1 DUI during the pilot program, with its risk of injury or death, warrants making R17-4-709 as an emergency measure.

13. The date of the Attorney General's approval of the emergency rule:
November 30, 1998

14. The full text of the rules follows:

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**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION**

ARTICLE 7. MISCELLANEOUS RULES

Section

- R17-4-709. Ignition Interlock Device Certification: Reliability and Accuracy Assurance**
Appendix A. Arizona Ignition Interlock Installation Verification
Appendix B. Arizona Ignition Interlock Accuracy Check
Appendix C. Arizona Ignition Interlock Noncompliance Report

ARTICLE 7. MISCELLANEOUS RULES

R17-4-709. Ignition Interlock Device Certification, Reliability and Accuracy Assurance

A. Definitions.

In this Section, unless the context otherwise requires:

1. "Audit" means an examination by Arizona Department of Transportation, Motor Vehicle Division personnel of participant records and supplies of warning labels and written instructions.
2. "Authorized installer" means a person or entity appointed by a manufacturer to install and service certified ignition interlock devices provided by the manufacturer.
3. "Calibration" means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify the device's accuracy.
4. "Certified ignition interlock device" has the meaning set forth at A.R.S. § 28-1301(1), as added by Laws 1998, Ch. 302, § 17.

5. "Data logger sheet" means the printed report generated from an ignition interlock device that contains all activities, data recordings, and actions pertaining to the device.
6. "Day" means calendar day.
7. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
8. "Ignition interlock device" has the meaning set forth at A.R.S. 28-1301(4), as added by Laws 1998, Ch. 302, § 17.
9. "Independent laboratory" means a laboratory, operated by a person or entity other than a manufacturer, that can test an ignition interlock device in accordance with Sections 1 and 2 of the National Highway Traffic Safety Administration (NHTSA) specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), 57 FR 11772-11787, April 7, 1992. The NHTSA specifications for BAIIDs are incorporated by reference and are on file with the Division and the Office of the Secretary of State. The NHTSA specifications for BAIIDs are also available from the Office of Research & Traffic Records, Room 6240 (NTS-30), NHTSA, 400 7th Street SW., Washington, DC 20590. Telephone: (202) 366-5593. This incorporation by reference contains no future editions or amendments.
10. "Manufacturer" means a person or entity that provides ignition interlock devices, requests the Division to certify a model of ignition interlock device, and appoints and

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oversees the authorized installers of the certified ignition interlock device.

11. "Material modification" means a change to a certified ignition interlock device that affects the functioning of the device.
 12. "NHTSA specifications" means the specifications for BAIDs incorporated by reference at R17-4-709(A)(9).
 13. "Participant" means a person ordered by an Arizona court to equip each motor vehicle operated by the person with a functioning certified ignition interlock device and who becomes an authorized installer's customer for installation and servicing of a certified ignition interlock device.
 14. "Use" means the installation, operation, service, repair, and removal of an ignition interlock device.
- B. Certification procedure for ignition interlock devices.** An ignition interlock device installed in a motor vehicle pursuant to the order of an Arizona court shall be a model certified by the Division in accordance with this Section. For each model of ignition interlock device to be certified, the manufacturer shall make application to the Division by submitting a properly filled out application form and all additional items required by R17-4-709(B).
1. The application form shall set forth the following:
 - a. The manufacturer's name;
 - b. The manufacturer's business address and telephone number;
 - c. The manufacturer's status as a sole proprietorship, partnership, limited liability company or corporation;
 - d. The name of the sole proprietor or of each partner, officer, director, agent, 20% or more stockholder, or manager of a limited liability company or member of a limited liability company whose management is reserved to the members;
 - e. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
 - f. The following statements, signed by an authorized representative for the manufacturer and acknowledged before a notary public:
 - i. A statement certifying that all information on the application form and attachments to the application is complete, true, and correct;
 - ii. A statement certifying that the manufacturer agrees to indemnify and hold the state of Arizona, the Division, and any department, division, agency, officer, employee or agent of the state of Arizona harmless from all liability for damage to property and injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or authorized installer appointed by the manufacturer relating to the use of the ignition interlock device. The statement shall certify that, in the event of litigation, the manufacturer agrees to indemnify and hold the state of Arizona, the Division, and any department, division, agency, officer, employee or agent of the state of Arizona harmless from all court costs, expenses of litigation, and reasonable attorneys' fees;
 - iii. A statement certifying that the manufacturer agrees to comply with the breath alcohol level established by the Division for certified ignition interlock devices and printed on the application form; and
 - iv. A statement certifying that the manufacturer

agrees to comply with the requirements of R17-4-709.

2. With the application form, the manufacturer shall submit the following additional items:
 - a. A document setting forth a detailed description of the ignition interlock device, with a photograph, drawing, or other graphic depiction of the device;
 - b. A document containing complete technical specifications that describe the accuracy, reliability, security, data collection and recording, and tamper detection of the ignition interlock device;
 - c. A report prepared by an independent laboratory chosen by the manufacturer, presenting data demonstrating that the ignition interlock device meets or exceeds the test results required by Sections 1 and 2 of the NHTSA specifications and providing the laboratory's name, address, and telephone number, and the name and model number of the ignition interlock device tested;
 - d. The laboratory certification form, signed by an authorized representative of the laboratory that prepared the report required in R1-4-709(B)(2)(c) and acknowledged before a notary public, certifying the following:
 - i. The laboratory is operated by a person or entity other than a manufacturer;
 - ii. The laboratory tested the ignition interlock device in accordance with Sections 1 and 2 of the NHTSA specifications;
 - iii. The ignition interlock device met or exceeded the test results required by Sections 1 and 2 of the NHTSA specifications;
 - iv. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device; and
 - v. The laboratory presented accurate test results;
 - e. A document containing the complete list of the authorized installers of the ignition interlock device, including the name, location, telephone number, contact person, and hours of operation of each authorized installer;
 - f. A document containing the complete written instructions provided to authorized installers for installation, operation, service, repair, and removal of the ignition interlock device, including the instruction to affix to each installed certified ignition interlock device a warning label conforming to the design adopted by the Division pursuant to A.R.S. § 28-1462(E) and printed on the application form;
 - g. A document containing the complete written instructions provided to participants and other operators of a vehicle equipped with the ignition interlock device; and
 - h. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, that evidences the following:
 - i. A product liability policy with a current effective date;
 - ii. The name and model number of the ignition interlock device covered by the policy;
 - iii. A policy limit of at least \$1,000,000;
 - iv. The manufacturer as the insured and the Division as an additional insured;
 - v. Product liability coverage for defects in manufacture, materials, design, calibration, installation, operation, service, repair, and removal of

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- the ignition interlock device; and
 - vi. A statement that the insurance company will notify the Division 30 days before cancellation of the product liability policy.
- C. Application completeness; refusal; hearing.
1. After application completeness occurs, the Division shall certify or refuse to certify an ignition interlock device.
 - a. The Division shall notify the manufacturer within 10 days after receiving an application for ignition interlock device certification that the application form or additional items are incomplete.
 - i. The Division shall specify what information or documents are needed to complete the application form or additional items.
 - ii. If the manufacturer fails to submit the necessary information or documents within 20 days after notification of incompleteness, the Division shall terminate the ignition interlock device certification process.
 - b. To confirm that the device meets the NHTSA specifications, the Division shall choose an agency or individual outside the Division to review an independent laboratory's report. The outside reviewer shall submit to the Division written confirmation or disapproval of the independent laboratory's report.
 - c. Application completeness occurs when the Division receives a properly filled out application form, all additional items required by R17-4-709(B), and an outside reviewer's written confirmation or disapproval of the independent laboratory's report.
 2. The Division shall refuse to certify an ignition interlock device upon finding any of the following:
 - a. A defect in design, materials or workmanship that causes failure of an ignition interlock device to function as intended;
 - b. Termination or cancellation of a manufacturer's liability insurance;
 - c. The manufacturer's discontinuance of providing the ignition interlock device;
 - d. False or inaccurate information relating to the performance of an ignition interlock device, provided by the manufacturer or independent laboratory; or
 - e. Modification or alteration of the components, design or installation and operating instructions so that an ignition interlock device no longer satisfies the NHTSA specifications.
 3. The Division shall notify the manufacturer by certified mail of the certification of an ignition interlock device or of the refusal to certify the device, specifying the basis for refusal.
 - a. If certification is refused, the notice shall state that the manufacturer may request a hearing by submitting, within 15 days after the date of mailing of the notice of refusal, a written hearing request addressed to the Motor Vehicle Division, Administrative Hearings Office, 1801 West Jefferson, Phoenix, Arizona 85007.
 - b. If timely requested, the hearing shall be noticed and conducted in accordance with A.R.S. §§ 41-1061 to 41-1066; A.R.S. § 41-1067, as added by Laws 1998, Ch. 57, § 51, effective August 21, 1998; and A.A.C. R17-4, Article 9.
- D. Cancellation of certification; hearing.
1. The Division shall cancel the certification of a device and remove it from the list of certified ignition interlock devices upon finding any of the following:
 - a. A defect in design, materials or workmanship that causes failure of an ignition interlock device to function as intended;
 - b. Termination or cancellation of a manufacturer's liability insurance;
 - c. The manufacturer's discontinuance of providing the ignition interlock device;
 - d. False or inaccurate information relating to the performance of an ignition interlock device, provided by the manufacturer or independent laboratory;
 - e. Modification or alteration of the components, design or installation and operating instructions so that an ignition interlock device no longer satisfies the NHTSA specifications;
 - f. A voluntary request by a manufacturer to cancel the certification of an ignition interlock device; or
 - g. Noncompliance by a manufacturer or authorized installer with any reliability and accuracy provision set forth at R17-4-709(E) through R17-4-709(H) or with any records retention, copy submission, and audit provision set forth at R17-4-709(I).
 2. The Division shall send the manufacturer by certified mail the notice and order of cancellation of the certification of an ignition interlock device.
 - a. The notice and order of cancellation shall specify the basis for the action.
 - b. The order of cancellation shall become effective 15 days after the date of mailing of the notice and order, unless the manufacturer files a timely response.
 3. If the Division cancels the certification of an ignition interlock device, the notice and order of cancellation shall require the manufacturer to appear at a specified time and place to show cause why the certification of the ignition interlock device should not be canceled.
 - a. The manufacturer shall submit, within 15 days after the date of mailing of the notice and order of cancellation, a written response to the order of cancellation addressed to the Motor Vehicle Division, Administrative Hearings Office, 1801 West Jefferson, Phoenix, Arizona 85007.
 - b. If no response is received by the Motor Vehicle Division by 15 days after the date of mailing of the notice and order, the order of cancellation is effective.
 - c. If a timely response is submitted, the hearing shall be noticed and conducted in accordance with A.R.S. §§ 41-1061 to 41-1066; § 41-1067, as added by Laws 1998, Ch. 57, § 51, effective August 21, 1998; and A.A.C. R17-4, Article 9.
 4. If the order of cancellation becomes effective, the manufacturer shall have full responsibility, including payment of all costs, for removal of decertified ignition interlock devices and replacement with certified devices.
 - a. Within 60 of the effective date of the order of cancellation, the manufacturer shall complete the removal of all decertified ignition interlock devices and replacement with certified devices.
 - b. A manufacturer of decertified ignition interlock devices who is not the manufacturer of a model that remains certified, shall pay the costs of replacing the decertified devices with certified ignition interlock devices provided by another manufacturer.
 5. The Division shall not accept an application for certification of an ignition interlock device submitted by a manufacturer who, within 60 days of the effective date of an order of cancellation, fails to complete the removal of all

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decertified ignition interlock devices and replacement with certified devices.

6. A manufacturer shall not provide for installation pursuant to an Arizona court order a previously certified ignition interlock device that has been decertified, unless the manufacturer submits to the Division the completed application form and all additional items required by R17-4-709(B), and the Division certifies the device.
- E. Reliability and accuracy assurance; modification of a certified ignition interlock device.
 1. A manufacturer shall notify the Division in writing of any material modification or alteration in the components, design or installation and operating instructions of a certified ignition interlock device.
 2. A manufacturer shall not provide for installation pursuant to an Arizona court order a certified ignition interlock device that has been materially modified or altered in components, design or installation and operating instructions, unless the manufacturer submits to the Division the completed application form and all additional items required by R17-4-709(B), and the Division certifies the modified or altered device.
- F. Reliability and accuracy assurance; referral to authorized installers; manufacturer oversight of authorized installers.
 1. A manufacturer shall refer a participant only to an authorized installer.
 2. A manufacturer shall provide the Division with a toll free telephone number for a participant to call to obtain names, locations, telephone numbers, contact people, and hours of operation of authorized installers.
 3. A manufacturer shall ensure that an authorized installer follows the installation, operation, service, repair, and removal procedures established by the manufacturer.
 4. A manufacturer shall ensure that an authorized installer has the training and skills specified by the manufacturer to install, troubleshoot, and examine and verify proper operation of the certified ignition interlock device.
 5. A manufacturer shall ensure that an authorized installer maintains a \$10,000, bond executed by a surety company authorized to transact business in Arizona, that meets the following requirements:
 - a. Identifies the authorized installer as principal obligor and the state of Arizona as obligee; and
 - b. Contains on the following provisions:
 - i. The bond is conditioned on the authorized installer's compliance with the provisions of R17-4-709;
 - ii. The bond shall be noncancellable during the time the authorized installer retains that status; and
 - iii. The bond shall benefit any person who suffers loss because of the insolvency or discontinuance of business of the authorized installer or the failure of the authorized installer or the failure of the authorized installer to comply with the provisions of R17-4-709.
 6. A manufacturer shall ensure that an authorized installer complies with the manufacturer's procedures for removing a certified ignition interlock device from a vehicle. The manufacturer shall ensure that within 10 days after removal of a certified ignition interlock device, the authorized installer notifies the Division by certified mail of the device's removal.
 7. A manufacturer shall ensure that an authorized installer provides every participant and every person operating a motor vehicle equipped with the certified ignition inter-

lock device with the manufacturer's written instructions for the following:

- a. Cleaning and caring for the certified ignition interlock device;
 - b. Types of vehicle malfunctions or repairs that affect the device, and what to do when vehicle malfunctions occur or repairs are necessary; and
 - c. Operating a motor vehicle equipped with the certified ignition interlock device.
8. A manufacturer shall ensure that an authorized installer provides every participant and every person operating a motor vehicle equipped with the certified ignition interlock device with manufacturer specified hands-on training in operating a motor vehicle equipped with the certified ignition interlock device.
 9. A manufacturer shall ensure that an authorized installer affixes to each installed certified ignition interlock device a warning label conforming to the design adopted by the Division pursuant to A.R.S. § 28-1462(E).
- G. Reliability and accuracy assurance; installation verification; accuracy check; noncompliance report.
 1. After ensuring that the certified ignition interlock device installation complies with the manufacturer's procedures, a manufacturer shall ensure that an authorized installer provides a completed and signed Arizona ignition interlock installation verification form (Appendix A) to the participant.
 2. A manufacturer shall ensure that an authorized installer schedules a participant for accuracy checks 30 days, 60 days, and 90 days after installation of a certified ignition interlock device. After the 90-day accuracy check, the manufacturer shall ensure that an authorized installer schedules a participant for accuracy checks at least every 60 days.
 3. A manufacturer shall ensure that an authorized installer submits a completed and signed Arizona ignition interlock accuracy check form (Appendix B) to the Division within 10 days after an installed certified ignition interlock device has an accuracy check.
 - a. If the certified ignition interlock device has signs of tampering, circumvention or misuse, a manufacturer shall ensure that an authorized installer submits, in addition to the completed and signed Arizona ignition interlock accuracy check form, a completed and signed Arizona ignition interlock noncompliance report form (Appendix C) to the Division within 10 days after the accuracy check.
 - b. If a participant fails to appear for a scheduled accuracy check and 5 more days elapse with no appearance by the participant, the manufacturer shall ensure that an authorized installer submits a completed and signed Arizona ignition interlock noncompliance report form to the Division within 10 days after the scheduled date of the missed accuracy check.
 4. A manufacturer shall ensure that the Arizona ignition interlock accuracy check form completed by the authorized installer states the calibration of the certified ignition interlock device prior to recalibration, has a data logger sheet attached, and is signed by the authorized installer.
- H. Reliability and accuracy assurance; emergency assistance by authorized installers; continuity of service to participants.
 1. A manufacturer shall ensure that an authorized installer provides participants with a 24-hour emergency phone number for assistance in the event of failure of the certi-

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fied ignition interlock device or vehicle problems related to the device's operation. Emergency assistance provided by an authorized installer shall include technical information, towing service, and road service.

- a. If the participant's motor vehicle is located not more than 50 miles from an authorized installer, emergency assistance for failure of a certified ignition interlock device or related to the device's failure shall be provided within 2 hours after the call for assistance.
 - b. If the participant's motor vehicle is located not more than 100 miles from an authorized installer, emergency assistance for failure of a certified ignition interlock device or related to the device's failure shall be provided within 4 hours after the call for assistance.
 - c. The authorized installer shall make the certified ignition interlock device functional within 48 hours after a participant's emergency assistance call or shall replace the device.
2. A manufacturer shall ensure uninterrupted service to participants for the duration of their Arizona court orders.
- a. If a manufacturer appoints a new authorized installer in place of a former authorized installer, the manufacturer shall obtain participant records from the former authorized installer and provide the participant records to the new authorized installer for retention in accordance with R17-4-709(I). If a former authorized installer is not replaced, the manufacturer shall retain the participant records in accordance with R17-4-709(I).
 - b. A manufacturer shall ensure that an authorized installer is located within 100 miles of the residence of each participant with a functioning certified ignition interlock device provided by the manufacturer.
 - i. If a participant's residence becomes more than 100 miles from an authorized installer, the manufacturer shall have full responsibility, including payment of all costs, for the removal of the existing certified ignition interlock device and replacement with a certified ignition interlock device for which there is an authorized installer within 100 miles of the participant's residence.
 - ii. The manufacturer of the originally installed certified ignition interlock device who is not the manufacturer of a model for which there is an authorized installer within 100 miles of the participant's residence, shall pay the costs of replacing the originally installed device with a certified ignition interlock device provided by another manufacturer for which there is an authorized installer within 100 miles of the participant's residence.
 - c. A manufacturer shall notify all participants of appointment of a new authorized installer or replacement of a certified ignition interlock device 30 days before the new authorized installer's appointment becomes effective or the replacement of the device occurs.
 - d. Within 10 days after a change in the list of authorized installers submitted to the Division with a manufacturer's completed application form, the manufacturer shall submit an updated list of authorized installers to the Division.
- I. Records retention; submission of copies and monthly reports;

periodic audits.

1. Records retention. A manufacturer shall ensure that an authorized installer or the manufacturer retains a participant's records for 1 year after removal of a certified ignition interlock device. The retained records shall consist of every document relating to the installation, service, repair, operation, and removal of the ignition interlock device.
2. Submission of copies and monthly reports.
 - a. Copies of records of installation, service, repair, operation, and removal of the certified ignition interlock device shall be submitted to the Division for examination on request by Division personnel. A manufacturer shall ensure that an authorized installer or the manufacturer provides copies of participants' records to the Division within 10 days after the request for copies of records.
 - b. A manufacturer shall ensure that an authorized installer timely submits a monthly report to the Division so that the Division receives the report by the 10th day of each month. A manufacturer shall ensure that the monthly report contains the following information:
 - i. The number of ignition interlock devices the authorized installer currently has in service.
 - ii. The number of devices installed since the previous monthly report.
 - iii. The number of pending installations, and
 - iv. The number of devices removed by the authorized installer since the previous monthly report.
3. Periodic audits. The Division shall periodically conduct an audit at the premises of an authorized installer or manufacturer, in accordance with A.R.S. § 41-1009, as added by Laws 1998, Ch. 57, § 22, effective August 21, 1998. The audit shall determine the following:
 - a. Whether the authorized installer or manufacturer retains records in accordance with R17-4-709(I)(1).
 - b. Whether the authorized installer maintains adequate supplies of a warning label conforming to the warning label design adopted by the Division pursuant to A.R.S. § 28-1462(E), and
 - c. Whether the authorized installer maintains adequate supplies of the written instructions provided to participants and other operators of a vehicle equipped with a certified ignition interlock device.

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Appendix A

ARIZONA

IGNITION INTERLOCK INSTALLATION VERIFICATION

As Ordered by the Court

COURT DOCKET No.: _____ TODAY'S DATE _____

CUSTOMER NAME: _____
ADDRESS: _____
CITY _____ ST _____ ZIP _____
PHONE NUMBER: _____
DRIVER LICENSE No OR SS No.: _____

INSTALLER NAME: _____
ADDRESS: _____
CITY _____ ST _____ ZIP _____
PHONE NUMBER: _____
MANUFACTURER and MODEL TYPE: _____
SERIAL NUMBER(s): _____

VEHICLE IDENTIFICATION INFORMATION:

TITLE OWNER: _____ TITLE No.: _____
Make: _____ Model _____ VIN _____
Color _____ Year _____ License Plate No. _____
Odometer reading: _____

CUSTOMER EDUCATION CHECKLIST

- _____ I have been instructed on the use of the system
- _____ I understand how to power the system on and off
- _____ I have delivered and passed a proper breath sample.
- _____ I have delivered and understand an abort test.
- _____ I understand how the alcohol retest feature works
- _____ I understand that if I smoke cigarettes or drink alcohol prior to testing that I may receive a sensitive or fail reading.
- _____ I have been informed of how to obtain service for my system or to have questions answered.
- _____ I have received my operator's manual.
- _____ I have been informed of the penalties for tampering or circumvention of the system.
- _____ I have been informed of what happens after failing three breath attempts.
- _____ I have been informed of what happens after failing "rolling retest"

MONITORING:

Your next monitoring check is _____. Your ignition system will remind you that you are due to make an appointment. If you fail to make an appointment, your ignition interlock device will shut down and you will be unable to start your car. It will be your responsibility to have your car towed to the Service Center. In addition, if you fail to appear you may be found in Noncompliance and your Driver License can be suspended for one (1) year pursuant to A.R.S. § 28-1463, as added by Laws 1998, Ch. 302, § 31.

Signature of Participant: _____ Date _____

Signature of Installer: _____ Date _____

Attach copy of Court Order for Installation of Ignition Interlock Device.

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Appendix B

ARIZONA

IGNITION INTERLOCK
ACCURACY CHECK

DATE: _____
INSTALLER _____
MANUFACTURER and MODEL TYPE: _____
SERIAL NUMBER(s): _____
MONITORING CHECK No. _____

CUSTOMER NAME _____
DATE OF BIRTH: _____
DRIVER LICENSE No.: _____

VEHICLE LICENSE PLATE No.: _____
ODOMETER READING: _____
CALIBRATION WAS _____ PRIOR TO RECALIBRATION.
THE SYSTEM IS NOW IN CALIBRATION: _____
THE SYSTEM HAS BEEN INSPECTED AND IS FUNCTIONING PROPERLY. _____
THERE IS NO EVIDENCE OF ATTEMPTED TAMPERING. _____
(IF THERE ARE SIGNS OF TAMPERING, COMPLETE "NONCOMPLIANCE REPORT")

COMMENTS: _____

Your next monitoring check is _____. Your ignition system will remind you that you are due to make an appointment. If you fail to make an appointment, your ignition interlock device will shut down and you will be unable to start your car. It will be your responsibility to have your car towed to the Service Center. In addition, if you fail to appear you may be found in Non-compliance and your Driver License can be suspended for one (1) year pursuant to A.R.S. § 28-1463, as added by Laws 1998, Ch. 302, § 31.

Signature of Participant _____ Date: _____

Signature of Installer: _____ Date: _____

ATTACH COPY OF DATA LOGGER SHEET AND SEND TO:
MOTOR VEHICLE DIVISION, DRIVER IMPROVEMENT UNIT
PO BOX 2100, MAIL DROP 530M
PHOENIX, AZ 85001-2100

Arizona Administrative Register
Notices of Emergency Rulemaking

Appendix C

ARIZONA
IGNITION INTERLOCK
NONCOMPLIANCE REPORT

DATE: _____
INSTALLER: _____
MANUFACTURER and MODEL TYPE: _____
SERIAL NUMBER(s): _____
MONITORING CHECK No.: _____

CUSTOMER NAME: _____
DATE OF BIRTH: _____
DRIVER LICENSE No.: _____

VEHICLE LICENSE PLATE No.: _____

THE CUSTOMER FAILED TO KEEP APPOINTMENT: _____
Attempts have been made to contact customer on:

_____	_____
Date	Time
_____	_____
Date	Time
_____	_____
Date	Time

THE DEVICE SHOWS EVIDENCE OF TAMPERING OR CIRCUMVENTION. _____

Explanation: _____

Signature of Installer: _____ Date: _____

SEND TO:
MOTOR VEHICLE DIVISION, DRIVER IMPROVEMENT UNIT
PO BOX 2100, MAIL DROP 530M
PHOENIX, AZ 85001-2100